

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:19-CR-121**

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
vs.)	ORDER
)	
SHAWN LEE NELSON,)	
Defendant,)	
and)	
)	
WAFFLE HOUSE, INC.,)	
Garnishee.)	
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This matter is before the Court on the Government’s Motion for Order of Continuing Garnishment. Doc. 13.

On December 4, 2013, the United States District Court for the Southern District of Texas entered a judgment against Defendant following his conviction for embezzlement by a bank employee. The judgment was amended on July 25, 2014. Doc. 1–2.

As a term of the Amended Judgment, Defendant was ordered to pay an assessment of \$100.00 and restitution of \$335,299.51, in part to CUNA Mutual Group and in part to Members Choice Credit Union. Jurisdiction was later transferred to the District of Vermont and subsequently to this district. Doc. 1. The balance due as of October 19, 2021 was \$247,356.81. Doc. 13 at 1.

On October 21, 2021, the Court entered a Writ of Continuing Garnishment (the “Writ”). Doc. 8. The record indicates that the Writ and associated materials were sent to and received by Defendant and the Garnishee. Doc. 10.

On December 1, 2021, the Garnishee filed a response, which indicates that the Garnishee has in its custody, control, or possession, property or funds owned by or owing to Defendant, in particular, employment earnings. Doc. 11. It appears that the Government served a copy of this response on Defendant by Federal Express and that Defendant received it the next day. Doc. 13, Exhibit B.

On December 2, 2021, the Garnishee filed an Answer, which contained similar information as its response (albeit in a different format). Doc. 12. It appears that the Garnishee served a copy of its Answer on Defendant by first-class mail.

Pursuant to federal debt collection procedures, a judgment debtor or the United States may file a written objection to the answer of a garnishee and request a hearing. Such filings are due “within 20 days after receipt of the answer.” 28 U.S.C. § 3205(c)(5).

Defendant has not requested a hearing with regard to the potential garnishment, and the statutory time period to do so has expired. 28 U.S.C. §§ 3205(c)(5), 3205(c)(7).

IT IS THEREFORE ORDERED THAT:

1. The Government's Motion for Order of Continuing Garnishment (Doc. 13) is **GRANTED** and an Order of Continuing Garnishment is **ENTERED** in the amount of \$247,356.81 as computed through October 19, 2021.
2. The Garnishee is directed to pay the United States the maximum allowable garnishment from Defendant's aggregate disposable earnings for any workweek, pursuant to 15 U.S.C. § 1673, that being the lesser of (1) 25 percent of Defendant's disposable weekly earnings, or (2) the amount by which Defendant's disposable weekly earnings exceed 30 times the federal minimum wage.
3. The payments shall continue until the debt to the United States is paid in full, until the Garnishee no longer has custody, possession, or control of any property belonging to Defendant, or until further Order of this Court, whichever first occurs.

4. The Garnishee is **DIRECTED** to advise the Government if Defendant's employment is terminated at any time by either the Garnishee or Defendant.

Signed: June 14, 2022

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

